

Message Text

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ACTION OES-06

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E.O. 11652: N/A
TAGS: EEC, PLOS, EFIS, US
SUBJECT: STATUS OF EC PROCEDURES TO PUT GIFA INTO FORCE

REF: EC BRUSSELS 2661

1. THE EC COMMISSION HAS SUBMITTED TO THE EC COUNCIL A PROPOSED REGULATION REGARDING THE EC INTERNAL PROCEDURES TO PUT THE US-EC GIFA INTO FORCE AND TO ASSURE ITS APPLICATION BY THE EC MEMBER STATES. MICHAEL HARDY, EC COMMISSION LEGAL SERVICES, STRESSED THAT THE PROPOSAL WILL BE CAREFULLY EXAMINED BY THE COUNCIL SINCE IT WILL SET A PRECEDENT FOR EC COMMUNITY TREATMENT OF FISHERY AGREEMENTS NOW BEING NEGOTIATED WITH OTHER THIRD COUNTRIES AND MAY BE EXTENSIVELY REVISED BEFORE RECEIVING COUNCIL APPROVAL, HOPEFULLY WITHIN 3-4 WEEKS UNLESS THERE ARE MAJOR DISAGREEMENTS. HE NOTED THAT ALTHOUGH THE COMMISSION RECOMMENDS THAT THE COUNCIL REFER THE AGREEMENT TO THE EUROPEAN PARLIAMENT, SOME COUNCIL SOURCES BELIEVE THIS MAY NOT BE NECESSARY AND, IN THAT EVENT, THE TIME REQUIRED TO COMPLETE

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THE EC INTERNAL PROCEDURES WOULD BE CONSIDERABLY SHORTENED. HE ALSO STATED THAT THE EC COULD REPLY TO THE US NOTE OF MARCH 4 AND THEREBY BRING THE AGREEMENT INTO FORCE, ON THE BASIS OF COUNCIL APPROVAL OF THE REGULATION (AND AN OPINION FROM THE PARLIAMENT IF DEEMED NECESSARY) WITHOUT WAITING FOR ENACTMENT BY THE MEMBER STATES OF ENFORCEMENT PROVISIONS OR FORMATION OF THE PROPOSED MANAGEMENT

COMMITTEE.

2. THE PRINCIPAL POINTS IN THE COMMISSION'S PROPOSAL (COPIES BEING POUCHED TO OES/OFA-SNEAD AND EUR/RPE-SALISBURY) ARE AS FOLLOWS:

A. IN THE FORWARDING MEMORANDUM, THE COMMISSION STATES THAT, IN ACCORDANCE WITH ARTICLE 43 OF THE TREATY OF ROME AND THE EC COURT OF JUSTICE OPINION IN THE DRAMER CASE OF JULY 14, 1976, "THE COMMUNITY HAS AUTHORITY TO ENTER INTO INTERNATIONAL COMMITMENTS FOR THE CONSERVATION OF THE RESOURCES OF THE SEA" AND, THUS, TO PUT THE EC-US GIFA INTO FORCE.

B. ARTICLE 1 AND 2 OF THE PROPOSED REGULATION PROVIDE FOR FORMAL APPROVAL OF THE GIFA AND NOTIFICATION OF THE US BY THE COUNCIL PRESIDENT THAT THE AGREEMENT CAN GO INTO FORCE.

C. ARTICLE 3 STATES THAT EC FISHERMEN WHO MAY BE AUTHORIZED TO FISH "FOR LIVING RESOURCES OVER WHICH THE US EXERCISES FISHERY MANAGEMENT AUTHORITY...SHALL COMPLY WITH THE PROVISIONS OF PERMITS ISSUED PURSUANT TO THE AGREEMENT AND APPLICABLE LAW OF THE US." THE ARTICLE CITES THE RELEVANT OBLIGATIONS IN ARTICLES VII, VIII, IX, AND X, OF THE GIFA AND STATES THAT FEES FOR FISHING PERMITS SHALL BE PAID BY THE "NATURAL OR LEGAL PERSON TO WHOM THE PERMIT IS TO BE ISSUED."

D. ARTICLE 4 REQUIRES MEMBER STATES TO: "TAKE ANY APPROPRIATE MEASURES TO PENALIZE INFRINGEMENT BY THEIR NATIONALS AND VESSELS OF THE PROVISIONS OF ARTICLE 3" (PARA 2C ABOVE); BE RESPONSIBLE FOR THE COMPILATION OF LIMITED OFFICIAL USE

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STATISTICS REQUIRED IN ANNEX II OF THE GIFA AND THEIR SUBMITTAL "ON BEHALF OF THE COMMUNITY" TO THE US; "BE RESPONSIBLE, ON BEHALF OF THE COMMUNITY, FOR ENSURING THAT THE TOTAL ALLOCATION IN RESPECT OF ANY FISHERY IS NOT EXCEEDED" BY THEIR VESSELS FISHING IN US WATERS, AND INVESTIGATE AND REPORT BACK ON POSSIBLE ACTION TAKEN IN THE EVENT THAT US AUTHORITIES REPORT THAT A VESSEL HAS VIOLATED US FISHERY REGULATIONS.

E. ARTICLE 5 CONCERNS THE COMMISSION'S ROLE IN SUBMITTING APPLICATIONS FOR FISHING PERMITS AND NOTIFYING THE US OF EC ACCEPTANCE OR REJECTION OF THE CONDITIONS FOR THE PERMITS.

F. ARTICLE 6 PROVIDES FOR THE FORMATION OF A MANAGEMENT COMMITTEE UNDER THE CHAIRMANSHIP OF A COMMISSION REPRESENTATIVE, WHILE ARTICLES 7 AND 8 ESTABLISH THE PROCEDURES FOR ITS OPERATION, INCLUDING VOTING REQUIREMENTS.

G. THE CONCLUDING ARTICLE 9 STATES THAT THE REGULATION SHALL GO INTO FORCE UPON ITS PUBLICATION IN THE OFFICIAL JOURNAL AND SHALL BE BINDING AND "DIRECTLY APPLICABLE IN

ALL MEMBER STATES". HINTON

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